G. R. S. 59] (60) GPB—15,000—20-12-13

GENERAL AND REVENUE SECRETARIAT.

1901-02.
(Police.)

File No. ~~43~~ 25

Serial Nos. 1-6.

Papers Filed.

Month ~~December~~ 1902.

SUBJECT.

Memorial of V. Subbamma Stamps Gumasta to for sanction to prosecute City Police Inspector Mr Wilkinson.

PREVIOUS REFERENCES.	LATER REFERENCES.

Note

Ref - Petition No 67 dated 7th July 1892 from N. Subbamma, Stamp Vendor, Bangalore

Ob Treasury, requesting sanction to prosecute Mr J.F. Wilkinson, City Inspector, Bangalore, under Sections 193, 342, 448, 298.

The Petitioner states that in connection with the loss of the Cash Chest of the Principal Munsiff's Court of Bangalore, the City Inspector Mr J. F. Wilkinson caused a search of his house, maliciously and without any reason, and also wrongfully arrested and confined him in the lock-up falsely stating that a pair of scales was traced to the Petitioner.

The Petitioner prays that sanction may be accorde

recorded to him to 2
prosecute Mr Wilkin-
-son under sections
193[1], 342[2], 468[3] & 298[4]
of the Indian Penal
Code.

(1) Fabricating false evidence.
(2) Wrongful confinement
(3) Forgery-Trespass.
(4) Act, word or gesture done with intent to wound religious feeling (here, swilling near devarru

Under section 197 of
the Code of Criminal
Procedure "When any
Judge, or any public ser-
-vant not removable
from his office with
out the sanction of
the Govt of Mysore
is accused as such
Judge or public Servant
of any offence, no
Court shall take
~~cog~~ Cognizance of such
offence except with
the previous sanction
of such Govt ven".

As Mr Wilkinson
is drawing a Salary of
Rs 200 per mensem
and as his appointment
rests

3. reads with Govt. the
Sanction of Govt is
therefore necessary for
prosecuting him.

Submitted for orders.

RK
15/7/02

Wm Wilkinson
appt by Govt. Put up papers
on the subject.

15-7-02

Submitted
A copy of Govt Proc:
No 23867-8 / 1446 dated 20th
June 1895 sanctioning
the confirmation of
Mr J. F. Wilkinson
as Special Inspector
of Police in the Kolar
Gold Fields on a
Salary of Rs 200-20
is put up.

RK
29/7/02

The file re: his first
appt cannot be traced to be
not available.

The petition may be forwarded
in the first instance to the D.S.
of Police for an enquiry &
report, & return of the Inspector's
certificate.

To Lech

29-7-02

Yes

30/7

Draft ordered
30/7

Office work continued by

In reply, the Inspector General, states that there were reasonable grounds for arresting the Petitioner and searching his house and that the motive of ill feeling attributed to Inspector Wilkinson has not been substantiated.

He recommends that the application of Subbanna may be rejected for want of sufficient ground ~~of further statement~~ that the Petitioner's house was ~~searched~~ searched as a pair of scales similar to the one contained in the missing box was traced to the possession of the Petitioner and that as a journal which was found during the search was identified by the Nazir of the Principal Munsiff's Court as containing only 4 strings instead of 5, he was arrested and placed before

5 before the Amildar
Magistrate who released
the Petitioner on bail.

A draft endorsement
is submitted for approval

2/12/02

Of the various offences for
which the petitioner wishes the detective to be
prosecuted, that of house-trespass (aide/para 4
(f)(v)) is of course a perfectly absurd one to be made against a police officer who
has to make a search on what he considers reasonable grounds.
Nor is also nothing
except the petn's word, to show that Williams
alleged to warned anybody's religious feelings
by smoking near petn's devaramane: on the
contrary, the fact that there were several
Brahman police officials and panchayatdars
at the time shows that they would have ob-
jected to any such unfounded behaviour (vide
para 4 of Williams's explanation).

As regards the charge of fabricating false
evidence, one cannot be so positive; as the
pair of scales (produced by one Shivacharya, a non-
taken from petr) and the female dog not
from part of the petn's premises, as alleged
(but this circumstance is not, by itself, sufficient
to warrant a sanction for prosecution
in the absence of definite incriminating evidence.
The last charge is that of wrongful confinement
and the bona fides of this act has to be justified

from the evidence of the reasonable friends of the two accused above mentioned at the time of the search.

The Inspector General of Police that every step taken by the Inspector in the search of the petitioner's house and his arrest was with the concurrence of his superior officers.

On the whole, the Inspector General ~~[illegible]~~ opinion that there are no grounds to sanction a prosecution in this case.

Clause (VII) of the Schedule to Criminal Matters provides:- "Prosecution of public servants in cases requiring the sanction of Govt." If no prosecution is instituted, it is doubtful whether the matter has to go before the Criminal at all.

Submitted
[illegible]

OFFICE OF THE DEWAN OF MYSORE,
(REVENUE AND GENERAL DEPARTMENTS).

(Full Office Note.)

‡ **Subject.**

Petition No.67 dated 7th July 1902 from N. Subbanna, Stamp Gumasta, Bangalore District Treasury, requesting sanction to prosecute Mr. T.F. Wilkinson, City Inspector, Bangalore, under sections 193, 342, 446 and 298.

* **Note.**

On the 6th January 1902, the cash chest of the Principal Munsiff's Court kept in the Bangalore District Treasury, was found to have been stolen. The petitioner N. Subbanna, Stamp gumasta of the Bangalore District Treasury, states that in connection with the loss of the above cash chest, he was deputed by the District Treasury Officer, Mr. Ahmed Ali, to collect information, if any, leading to the discovery of the chest; that the Police Inspector Mr.T.F. Wilkinson to whom he communicated the information obtained by him, did not act upon it, and that he (Subbanna) thereupon informed the Treasury Officer and the District Magistrate of the same and reverted to his legitimate duties. The petitioner further states that Inspector Wilkinson began to entertain a state of ill feeling towards him, having learnt that he had told the Treasury Assistant Commissioner and the District Magistrate about the supineness of the Police in the detection of the cash chest and that in consequence of this

the

‡ 1. No. and date of latest letter or paper.
2. Catch words to show nature of subject.
3. Subject to be in red and body of note in black

* 1. Statement of case in narrative form in regular sequence of subject matter or date.
2. Opinions to be stated only as supported by precedents, or general rules which should always be quoted.
3. Serial numbers in file, &c., to be always stated.
4. Dates of important documents referred should be given.
5. Write on both sides, leaving the same side as margin.

the Inspector surrounded the petitioner's house on the morning of the 16th February 1902, with a posse c constables &c, and conducted the search in an outrageous manner and subsequently caused him to be arrest -ed and wrongfully confined.

The charges which the petitioner makes against Inspector Wilkinson are:-

(1) That the Inspector falsely stated that a pai of scales similar to the one kept in the missing cash chest, was traced to the possession of the petitioner with a view to fabricate false evidence against him, and thereby committed or attempted to commit an offence under section 193 of the Indian Penal Code.

(2) That on the 17th February 1902, the Inspector caused the arrest of the petitioner and had him wrong -fully confined in the dark cell of the Central Police Station and thereby committed an offence under section 342 of the Indian Penal Code.

(3) That on the morning of the 16th February 190 the Inspector without reasonable cause, entered his house with his Constables on the pretext of searching his ho and carried away jewels the property of the guests who were lodging in the petitioner's house on the pretext that they were articles stolen from Prin cipal Munsiff's Court and thereby committed an offen punishable under section 448 of the Indian Penal Code.

(4) That Mr Wilkinson at the time of the search wantonly and maliciously, sat near the Devaramane an smoked cigars, and thereby wounded the religious fee -ings of the petitioner and the other inmates of the house, and so committed an offence punishable under section 298 of the Indian Penal Code.

The Petitioner prays that sanction of Government

may be accorded for prosecuting Inspector Wilkinson under sections 193, 342, 448 and 298 as stated above on the ground that Mr. Wilkinson is a European British Subject and that as he is drawing a salry of Rs 200 per nsem, his appointment and dismissal rest with Government.

The Inspector General of Police states that the pe-titioner's house was searched by the Inspector, as a pair of scales similar to what was contained in the missing box was traced to the possession of the petitioner through one Alwar Chetty; and that, as during the search of his house, a female suspected to be part of the stolen property was found and identified by the Nazir of the Principal Munsiff's Court as containing four strings instead of five, the petitioner was arrested and placed before the Amildar-Magistrate, who released him on bail. The Inspector General further states that there is nothing on record to show that the petitioner was deputed to help the Police or that he complained of their apathy to the officers concerned, and that every step taken by the Inspector in the search of the petitioner's house and his arrest was with the concurrence of the Superintendent of Police. He adds that there is no provision of law to prevent the Police to search even the Devarmane, and recommends that the application for sanction to prosecute the In-spector be rejected for want of sufficient grounds.

It has been ascertained from the Office of the Inspector General of Police that Inspector Wilkinson was entertained as Chief Constable, 4th grade, on Rs 42 on the 1st July 1885. The appointment being within the powers of the Inspector General, the sanction of Government was not obtained therefor, and the sanction of the Government of India was not obtained to his entertainment he being a Eurasian.(The Inspector however

subsequentl

subsequently claimed to be a European British subject :
the City Magistrate's Court).

In Government Order No.23967-6/J.1446 dated 20th June :
Inspector Wilkinson was confirmed as Special Inspector
Police in the Kolar Gold Fields on a salary of Rs 200+
with effect from 1st June 1895.

Under section 197 of the Code of Criminal Procedure
the previous sanction of Government is necessary for the
prosecution of any public servant not removeable from his
office without the sanction of Government. As the Inspector's
appointment was sanctioned by Government the sanction of
Government is necessary for his prosecution.

The only suspicious circumstance against the Inspector is the fact that neither the scales nor the female, in the temple of which the pellet was arrested, formed part of the stolen property at all. But, in the absence of more definite evidence of malicious intent, it seems inexpedient to give the sanction asked for by the Pet.r. As drawing-regarding his petition is put up, [if a prosecution be decided on, this has to go before Council under clause VII of the Schedule of Council matters.]

4.12.95

The Inspector does not directly deny the allegation about smoking within the house. This if true would

show that he was inconsiderate and though perhaps, it may not be a criminal Office, the act would be deserving of censure or other notice.

~~The file of~~

If further investigation before deciding the case is considered necessary, a fuller explanation may be called for, together with all the diaries.

5/12/902

The Dewan.

~~Lodhi~~ L
5/12

77°
No 5.12.02

9231
I agree with the D.S.P. Mubarak Market
may be sent to
Hrs 8/12 the Addl Dist Magistrate while
on duty as they are
Dewan to D.S.P. L 5/12 an objectionable class
7.XII.02

Proceedings of the Government of Mysore:

Read:— Letter No: 3996/353 dated 13th June 1895, from the Inspector-General of Police in Mysore, recommending that Mr. J. H. Wilkinson may be confirmed as Special Inspector of Police in the Kolar Gold Fields on a salary of Rs— 200 + 20 with effect from 1st June 1895.

———— a ————

Order thereon No: 23867-8/J 1416

Dated Bangalore, 20th June 1895.

Sanctioned.

(Sd) V.N. Narasimmiengar
General Secretary.

'Copy'

1/PoC 1970 1607/1902 J 1924

SECTION Political
1901-2
25
FILE No. 3 of 90

From

THE FIRST ASSISTANT TO THE HONBLE THE RESIDENT IN MYSORE.

SERIAL No. 1.

To

THE DEWAN OF MYSORE.

Dated 13. 6. 02

Despatched

Received

General No. 3217
No.

Enclosure No.

Invites attention to an article headed "The Inspector Wilkinson Case" which appeared in the Daily Post dated the 7th June 1902.

References to be marked.

Mdl

No. 3217

FROM

C. L. S. RUSSELL Esq., I. C. S.,
FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

Rd 13-6-02
4833

To

The Dewan of Mysore.

Dated Bangalore, 13th June 1902

SIR,

I am directed to invite your attention to an article headed "The Inspector Wilkinson Case" which appeared in the Daily Post dated the 7th June 1902.

2. If the case in question has been correctly reported, the City Magistrate seems to be going wrong. The Magistrate is reported to have made a statement that there was a Regulation in force in the Mysore State under which it is necessary to obtain the sanction of the Imperial Government to the entertainment of Europeans in the Mysore Service and that if Mr. Wilkinson could produce any such sanction from the Viceroy he was willing to concede the point urged by the defence. There is no Regulation of the kind mentioned, but, as you are aware, the Courts of the

Darbar

Darbar have no jurisdiction over Europan British subjects. The sanction of the Government of India to the entertainment of the services of a European British subject by a Native State has not necessarily anything to do with the question of criminal jurisdiction; in the case of Eurasians, no sanction to their employment by the Darbar is required, yet they are often European British subjects.

3. With regard to the last paragraph of the article, I am to state that the first issue ~~of~~ for trial, if there is any doubt, is whether the accused person is a European British subject. If he be so, the proceedings should be stayed.

I have the honour to be,

Sir,

Your most obedient servant,

First Assistant Resident.

RK

and Revenue for
icial Branch

(Dy L.a.
7.7.02

11 JUL 1902
751 · 1902-03

SECTION Police.

FILE No. 25 No. 67
#3 of 902

SERIAL No. 2

Name of Petitioner N. Subbanna
Stamp guard at the
Village Bangalore Dt Treasury

Taluk } Bangalore
District }

Date of Arzi

Date of Receipt 7.7.02

Date of Disposal

No. of Enclosure

Encl. 63(1)

7, 1902.

The Inspector Wilkinson Case.

(BEFORE THE CITY MAGISTRATE.)

Saturday—June 7.

THE case against Mr. T. F. Wilkinson, City Inspector, under circumstances reported in our last night's issue was called on for hearing to-day. Messrs Vydhianatha Iyer, Advocate, Seshachar, Advocate, and Chickannah Chetty, Pleader, appeared for the complainant, Subbannah, while Mr. Salikram Subba Row, Advocate, appeared for Mr. Wilkinson. Mr. Subba Row, raised the following two preliminary objections, *viz.* that this Court has no jurisdiction to try the accused, inasmuch as he is a European British-born subject, *vide* section 443 C. P. C. Secondly, that the accused's appointment or dismissal resting with Government, the latter's sanction to prosecute is essential under section 197 C. P. C.

The Magistrate (to defence Counsel) :—What have you to say with regard to these objections?

Mr. Vydhianatha Iyer :—As regards the first objection, it is a matter of proof.

Mr. Wilkinson:—If your honor doubts that I am a European British-born subject—

The Magistrate :—No, no, it is not a matter of doubt, it is a matter of proof. I know that there is a regulation in force in the Mysore Province to the effect that the sanction of the Imperial Government should be obtained for the entertainment of Europeans in the Mysore Service. If Mr. Wilkinson can produce any such sanction from the Viceroy, I am willing to concede the point.

The prosecution then submitted that it was not necessary that sanction should be obtained from Government to prosecute [illegible] of the Deputy

[illegible] of the accident already, he signed.

[illegible] only hope that she knows something.

[illegible] the difficulties of his delicate

[illegible] only complicated matters, and

[illegible] the wound he thought it rather likely than not that the injured could never regain consciousness

[illegible] might not recover. From what he

ABSTRACT

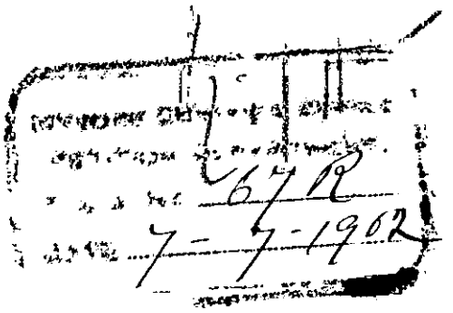
(Petition is in English)
Praying for Sanction to prosecute Mr Wilkinson under Sections 193, 344, 448 and 298 of the Indian Penal code for having unnecessarily and without reasonable and probable cause Subjected the pete to harsh treatment.

MGCPB—4,000—31.1.02

7.7.02

1/a 5

Pet" Re
Registered and
Registered and
transfer
7/7/02



To,

The Secretary to the Government of Mysore,
General and Revenue Departments,
B A N G A L O R E.

Sir,

I beg to enclose a petition to the Dewan of Mysore with a request that you will be good enough to forward it at your earliest convenience for necessary orders of his Excellency the Dewan.

2. On a reading of the petition it will be seen that an humble loyal and devoted servant of the Government of Mysore has been unnecessarily and without reasonable and probable cause subjected to a treatment by Mr.Wilkinson of the Police Establishment for no fault of mine.

3. I come of a race well-known in the administration of Mysore for its devoted loyalty and genuine feelings of respect for the Government.

4. Much against my wish the petition I have cut down to a tolerable length bringing into prominence those salient points which are necessary to enable the Government to grant me the humble request-- to prosecute Mr.Wilkinson of the Police Establishment under Sections 193, 342, 448 and 298 of the Indian Penal Code.

5. I am obliged to trouble Government primarily in the interests of justice and secondly in the vindication of my character which has sufferred considerably since the

harassing

harassing search by Mr.Wilkinson on the 16th February 1902

6. I fear I have already trespassed much upon your valuable time for which I beg to be excused. I feel hopeful that you will lend your valuable support while forwarding th enclosure to the Government for orders.

Once more with an apology,

I beg to remain,

Sir,

Your most obedient servant,

N. L. Chaumont

To

His Excellency P.N.Krishnamurti Esq, B.L.C.I.E,

Dewan of Mysore.

(Through

The Officiating Secretary to the Government

of Mysore.

General and Revenue Departments,

BANGALORE.)

The humble petition of N.Subbanna, Stamp Gumasta Bangalore District Treasury most respectfully sheweth:-

That on the 6th January 1902 the Cash Chest of the Principal Munsiff's Court, Bangalore, mysteriously disappeared. On the 8th or 9th idem at the suggestion of the District Treasury Officer, Mr. Ahmed Ali, the petitioner was deputed by the Deputy Commissioner of the Bangalore District to assist the Police in the matter of collecting information regarding the dis-- appearance of the said cash chest of the Principal Munsiff's Court and if possible to trace out the cul-- prit or culprits engaged in the carrying away of the same.

2. That while engaged in the special duty the -- petitioner did obtain sufficient information which he immediately communicated to Mr. T.F.Wilkinson, Police Inspector who appeared to treat it with supreme indif- ference; and had the Police Inspector acted promptly upon the information thus given by the petitioner the chances were that the missing cash chest with its con- tents would before long have been traced out. Finding

Finding that the Police were not willing to be assisted by the petitioner who was not of their establishment, the petitioner informed the Treasury Officer, Mr. Ahmed Ali and the District Magistrate, Mr. M.S.Narayana Rao of the same who thereupon ordered the petitioner to revert to his legitimate duties in the District Treasury and to cease all communication in the matter of aiding or giving information to Police concerning the missing cash chest.

3. That Mr. Wilkinson having learnt what the petitioner told the Treasury Assistant Commissioner and the District Magistrate about the supineness of the Police in the missing cash chest affair, was unnecessarily irate on the petitioner and a state of ill-feeling began to be engendered by Mr. Wilkinson towards the petitioner for no other reason than what is stated above.

4. That suddenly on the morning of the 16th Feb.02 Mr. Wilkinson with the aid of posse of policemen Head Constables, Sergeants, and Probationary Police Inspector surrounded the petitioner's house at about 8 A.M. under the pretext of searching the petitioner's house with a view to trace out the missing articles contained in the cash chest of the Principal Munsiff's Court, Bangalore.

5. That Mr. Wilkinson then knew that the petitioner was quite innocent of any offence concerning the missing cash chest and was also quite aware of the preparations which the petitioner was making for the celebration of his daughter's marriage which was to come off on the 24th of Feb. 1902 and it was also within the knowledge of Mr. Wilkinson that guests both males and females had already arrived in Bangalore and were residing at the time of the search in the petitioner's house.

6. That under the colour of law the search was conducted with indescribable hauteur on the part of Mr. Wilkinson and the Modusoperandi of the search was not in accordance with the law laid down in the Code of Criminal Procedure. Apart from this Mr. Wilkinson, at the the time the search was being conducted, wantonly and-- maliciously sat near the (Devarumane), (a room set apart for the worship of the family Deity) and leisurely smoked away a number of cigars. What should have been the -- feelings of the inmates of a Hindu home and of those who by chance witnessed Mr. Wilkinson smoking away cigars in the manner above described be better ~~be~~ imagined-- than described; one point the petitioner humbly ventures to remind the Government of Mysore is that Mr. Wilkinson though an alien by faith and race is a servant of this tolerant Government of Mysore and as such ought to have shewn all possible consideration towards the feelings and religious susceptibilities of the petitioner, conceding for a moment for argument's sake that the search e was instituting was perfectly legal and remembering t the same time that the petitioner was not at all accused of any offence.

. That Mr. Wilkinson carried away jewels, the -- roperty of guests, on the gratuitous supposition that hey were the articles of the Principal Munsiff's Court, he reasonableness or otherwise of the so-called tracing ut of the missing articles of the Court is apparent -- hen it is remembered that all the jewels seized in the earch were returned within a couple of days.

. That on the 17th Feb. 1902 the petitioner preented a petition to the Deputy Commissioner and District agistrate, Bangalore, stating succintly the fore-going acts and praying to accord sanction to prosecute------- r. Wilkinson criminally. The petition was forwarded to he Superintendant of Police for early report; that very vening while the petitioner was returning home from his

his office a sergeant named Syed Peer met him at Yellahunkagate Station and asked the petitioner to follow him to the Central Police Station since the Inspector of -- Police Mr. Wilkinson desired to return certain jewels which were seized by him during the search of the 16th Feb. 1902. The petitioner went there accordingly, instead of the jewels which the petitioner was expected to receive he was given a dark cell in the Central Police Station to pass the night.

9. That on the 18 th the petitioner under arrest was taken before the Taluk Magistrate of Bangalore Taluk for a detention order of 10 days by Mr. Wilkinson. In the report submitted praying for a detention order, Mr. Wilkinson falsely stated that a pair of scales was traced to the possession of the accused. (Now petitioner before Govt.) which was not found at the search and with a view to fabricate false evidence against the petitioner. Not satisfied with the reasons of the Police, the Taluk Magistrate released the accused at once on bail.

10. That the petitioner renewed his application for sanction to prosecute Mr. Wilkinson before the Deputy Commissioner and District Magistrate on the 2nd May 1902 and an order was granted.

11. That thereupon the petitioner lodged his complaint against Mr. Wilkinson in Criminal Case N. 942 of 1901-02 on the file of the City Magistrate, the case was fixed for the appearence of the accused on the 7th June 1902 On that day the accused appeared and pleaded that he was a European British subject and also objected that the order sanctioning his prosecution was insufficient. The City Magistrate posted the case to 27th June 1902 to enable the accused to substantiate his plea of European British subject and also to enable the petitioner to argue upon the sufficiency or otherwise of the order giving sanction to prosecute the

12. That while the case was thus pending in the Court of the City Magistrate, Bangalore the accused Mr. Wilkinson presented a petition to Mr. J. F. Sparkes, District Magistrate of Bangalore who on the 17 the June 1902 served the petitioner with a notice to show cause why his complaint against Mr Wilkinson should not be struck off the file on account of want of a proper sanction under Section 197 of the C.P.C. The District Magistrate of Bangalore accordingly struck off the petition discharging the accused.

13. In the meantime the petitioner addressed ~~to~~ the Inspector-General of Police praying that sanction may be accorded to prosecute Mr. Wilkinson. By the Endorsement --- No 5818/419 dated the 20th June 1902 the Inspector-General says as follows:---

"As you say that the Deputy Commissioner has disposed of the matter in your favour there is nothing more to be done here now."

14. In this connection two points have been raised firstly, that Mr. Wilkinson is a European British subject secondly, according to the order of the District Magistrate any sanction to prosecute him in a Criminal Court must -- necessarily come from Government because he is an Officer drawing a salary of Rs. 200/- per mensum and that his appointment and dismissal rest with Government.

14. Under the circumstances above set forth the petitioner most humbly prays that ~~you~~ Your Excellency will be pleased to consider the matter ~~before Your Excellency~~ and to grant sanction to prosecute Mr. Wilkinson under Sections 193, 342, 448, 298, of the Indian Penal Code. In conclusion the petitioner most humbly begs that he may be excused for running the petition into an unusual length which he could not control on account of the importance of the subject involved.

With humble respects, the petitioner begs to remain,

Your Excellency's most obedient & dutiful servan

A. Subbaraya

SECTION ~~Police~~

FILE NO. ~~43 of 1902~~ 25 Asst Commr Police

SER AL NO. 3 Residency Bangalore

634 of 14/7/02

F. 62

Sir,

I am directed to acknowledge the receipt of your letter no 3217 dy the 13th June 1902, regarding the trial of Inspector Williamson of the Bangalore City Police in the Court of the City Magte of Bangalore. In reply, I am directed to state that, on a perusal of the records of the case, it appears that on the ~~Complainant~~ appearance of the accused before the City Magte on the 7th June 1902, he put in a petition of objections stating among other things that he was a European British Subject; and that the case was then adjourned to the 27th idem for the consideration of this and other preliminary objections. In setting down for decision as the first issue the question whether the accused was a European

I am to say, in accordance with the correct procedure, and therefore no interference with his proceedings at that stage was necessary. Moreover, before the date of the adjourned hearing, the records had been called for by the District Magistrate of Bangalore on the application of the accused, and the latter was directed to be discharged on the 24th June 1902 on the ground that the conditions prescribed by section 197 of the Criminal Procedure Code had not been fully complied with.

I have &c

9.7.02

Submitted to the Dewan for appl

There is nothing in the record to show that the City Magistrate made the remarks referred to in para 2 of the Residency Letter and I must be guided by

9/7/02

9-7-02
5106.

11/11

Police

MYSORE DEWAN'S OFFICE.

25 ~~#3907~~ PETITION DEPARTMENT.

No. 4.

OFFICIAL MEMORANDUM.

The accompanying ~~Appeal~~ Pe
No. 67 dated 7th July
received at the Dewan's Office from
N. Subbanna, Stamp
Gumasta, Bangalore
D. Treasury, praying
for sanction to prosecu
Mr. J. F. Wilkinson, City
Inspector, Bangalore, under
Sections 193, 342, 448
and 220 of the I. P. Code

is forwarded, ~~together with its enclosures~~, to the ~~Deputy Commissioner~~ Inspector General
of Police in Mysore ~~District~~ for enquiry and report
for ~~submission of the entire proceedings connected with the case, together with a full report of the facts of the case, and on the points urged in the petition~~ and submission of the Inspector's explanation.

2. The petition ~~with its enclosure~~ should be returned.

1902.

Pol. 704

From The Advocate General

No. 2907-20 of Dated in Mysore

To The Secretary to the Govt of Mysore

Dated General & Q. Dept.

Despatched 27 November 02

Received

General No. 2317/170

No.

Enclosure No. 4

Re Commencing court of publication of Subbanna Slander passed at Bangalore with to the Dewan of Mysore praying for sanction to prosecute Proprietor Wilkinson may be rejected for want of sufficient grounds.

Govt
28.11.02

Note submd

[illegible]
2/12/02

15

Office of the

Inspector General of Police in Mysore

Dated Bangalore 27 - November 1902.

No: 2317/170 E 4

From,

T. Madiah Esquire, Rao Bahadur.

Inspector General of Police in Mysore

To,

H. V. Nanjundayya Esquire, M.A. M.L.

Secretary to the Government of Mysore

General and Revenue Departments.

Sir,

With reference to your official

Memorandum No: 2097/180 of 1:8:02

forwarding for enquiry and report

with Inspector Wilkinson's explanation

the

the petition of Subbamma, Slump Gumasta, Bangalore District, to the Dewan of Mysore praying for sanction of Government to prosecute the said Inspector under Sections 193, 342, 448 and 298 of the Indian Penal Code, I have the honor to report seriatim on all the points raised in the petition:-

The cash chest of the Principal Munsiff's Court was kept in the District Treasury for safe custody and it mysteriously disappeared on the 6th January 1902. It was in connection with the investigation of this case that the petitioner was arrested and his house searched as his suspicious conduct-

pointed

pointed to him as being concerned
in the theft of the box. A pair of
Scales similar to what was contained
in the missing box was traced to
the possession of the petitioner,
the same having been secured
from one Alvar Chetty whom the
Police had taken into confidence
and who was entrusted with it
by the petitioner for being introduced
into the house of Gouria, a process
peon of the Principal Munsiff's
Court, in order to get him into
trouble owing to bitter enmity
that existed between the two individuals
This fact coupled with the double
part Subbanna played in pretending
to help the Police and at the same

time

time trying to bring about the ruin of his enemy roused a strong suspicion against him and led to the search of his house, during which Jomale (a gold neck ornament) X was found and identified by the Vazir of the Principal Munsiff's Court as containing only 4 strings instead of five. On this evidence the petitioner-Subbanna was arrested and placed before the Anildar Magistrate who released the accused on bail on his application though a similar one was rejected by the District Magistrate a few minutes previously. The Superintendent Memorandum received in original without any remarks by the Deputy Commissioner clearly shows that every

X Expected 5 from description but only 4 found

step

-Step taken by the City Inspector in the Search of the petitioner's house and his arrest was with the concurrence of that Officer.

The allegation that the Police cherished a feeling of hatred against the accused because he Complained to the Deputy Commissioner and Assistant Commissioner of their indifference to act promptly on the information furnished by him must be discarded as ridiculous in the absence of any record to show that he was deputed to help the Police and that he did Complain of their apathy to the officers Concerned. On the contrary any bona fide information leading to the

detection

detection of the case of such a serious nature would have been welcomed by the Police but when the petitioner was playing fast and loose with the ulterior object of putting them on the wrong scent and of taking undue advantage to injure his enemy, the Police Inspector cannot be blamed for rejecting accused's so-called help.

Subbaiya complains of the modus operandi of the search. It is not understood what provision of law is referred to in the petition under reference as there is nothing to prevent the Police to search even the Devara-mane, should such

But is it true that the Inspector sat somewhere here?

such a step be considered necessary in the ends of justice.

It is strange that the petitioner should make much of the accidental coincidence between the date of his petition to Deputy Commissioner and of his arrest which took place on the day following the search of his house and which cannot therefore be regarded as confirming malice-prepense on the part of the Inspector.

Why should this be taken to be a case of mere Criminal-dence or rather Sequence?

I have purposely omitted to comment upon the disposal of property found in the petitioner's house during the search inasmuch it was done under the orders of the Magistrate.

But that may help to decide on the merits of the question.

In conclusion, I beg to state that

that there are no grounds to grant the prayer of the petitioner for if permission as accorded to prosecute a Police Officer for doing his duty in accordance with law and with the concurrence and approval of his Superior officers as in the present instance, his position would become unsafe - nay, very few would accept Service in the Police Department.

But there is no justification for declining to investigate a complaint for abuse of Powers

Here there were reasonable grounds for arresting petitioner and searching his house and the motive of ill-feeling attributed to Inspector Wilkinson has not been substantiated and is also ridiculous on the face of it.

In

In these circumstances, I would strongly recommend that the application be rejected for want of sufficient grounds.

Subbamma's petition, copies of Superintendent's Memorandum with enclosure and of Inspector Wilkinson's explanation are herein enclosed.

I have the honor to be,

Sir,

Your most obedient Servant.

Inspector General of Police

Memorandum

Enclosure No 5

On the 6th January 1902 informa
was received by the City Inspector
from one Subbanna, a clerk (Stamp
Accountant) of the Treasury Assistan
Commissioner's office to the effect
that a cash box of the Principal
Munsiff's Court was missing from
the District Treasury room, where it
was deposited for safe custody. On
receipt of this information, the City
Inspector Mr. Wilkinson repaired to
the spot immediately and ascertained
the following particulars:—

2. On Saturday the 4th January
1902, the Vazir of the Principal Munsiff
Court locked the cash box in question
and after sealing it sent it as usual
by Process peon Gowriah to the Treasury.

Gowriah

Govriah took the box to the Treasury and brought back the receipt book as a voucher for having delivered it, which the Nazir kept in his possession. On Monday the 6th. January 1902 the Nazir sent Dalayet Linga with the receipt book to the Treasury for the box but the Dalayet returned with the information that the box was not forthcoming. Thereupon a search was made for the cash box in the Treasury rooms but without result.

3. The investigation was first taken up by Chief Constable McKie but subsequently the City Inspector Mr. Wilkinson took the matter in hand. In the course of the investigation — Subbanna the official who first lodged the information was strongly suspected of the theft of the box. A pair of scales which was one of the articles that had

been

-been kept in the stolen cash box was traced to his possession. His house was therefore in the course of the investigation, and with the ___ concurrence of the then Deputy Commissioner to whom the details of the investigation were from time to time reported by the City Inspector in person, searched by the Inspector on 16th February 1902 under Section 165 Cr.P.C in the presence of a Panchayet and a gold beaded necklace (Jonale) and four other ornaments were seized, as it was suspected that they formed part of the stolen property.

4. A Mahazar was drawn up on the spot and the seizure of the articles was, in accordance with the Criminal Procedure Code, reported to the City Magistrate. The above articles together

with

with the pair of scales were shown to
the Nazir of the Munsiff's Court. He
averred that the pair of scales was
the identical one that had been kept
in the cash box and that he was
almost certain that the Jonalé was
in every detail identical with the
one lost except that when it was
kept in the cash box it had 5 Saram
(skeins) and it now had only 4 and bore
marks of a Saram having been cut off.
As this identification was so far
satisfactory Subbanna was arrested
on 17th February 1902 at 7:30 P.M. and
the arrest was reported to the District
Magistrate as required by the Criminal
Procedure Code. On the 18th February
1902, he was placed by the City Inspector
under the instructions of the Deputy
Commissioner before the Amildar and
2nd Class Magistrate, Bangalore Taluk,

with

with an application for a remand to Police custody for ten days as there was every likelihood of the entire property being recovered, but the Magistrate released him on bail. A few minutes prior to this an application to release the accused on bail was made to the District Magistrate and refused. The Amildar Magistrate's order being contrary to law and ultra vires the District Magistrate was applied to, to set it aside, and reference to the Proceedings on the subject is requested – from which it will be seen that while holding that the Taluk Magistrate's order was not warranted by law the District Magistrate directed that nothing further need be done in the matter.

5. The properties seized in the search of Subbanna's house were placed for orders before the City Magistrate who

directed

the retention of such of them as related to the case and the return of the others to Subbamah. The order was complied with and only the Jewels retained by the City Inspector for further investigation. Subsequently on 17:3:02 the City Magistrate apparently at the instance of the petitioner in his order No: 2134 directed the City Inspector to forward the Jewels to his Court. This was done and on 19:3:02 the City Magistrate directed the City Inspector to inform him as to whether or not he required the necklace to be further detained. In his reply No: 828 dated 20:3:02 the Inspector reported that the investigation had not yet been completed and requested the retention of the jewel till this was done when a final report would be submitted.

7. The Magistrate thereupon in his No: 2154 dated 20:3:02 directed the Inspector

to report the steps taken by him in the case subsequent to the seizure of the articles and to forward any statement recorded by him as to the ownership of the properties seized. In reply the City Inspector in his No: 839 dated 22:3:02 stated that the articles in question were shown to the complainant (Vayir) and his statement recorded in respect to their identification, that from the records of the Munsiffs' Court, it would appear that the Jonale was the property of one Vaga Boyee of Velanmangala and was attached some years previously in a Civil suit, that as Vaga Boyee was absent from his village, his presence just then could not be secured in order to satisfy himself (Inspector) as to the identification

of

of the jewel; that until this man was examined it will be necessary to detain the jewel; and that copy of the complainant's (Nazir) statement was forwarded for perusal. The City Magistrate then called for the Mahazars (search lists) which also were forwarded. Subsequently on 22:4:02 the Magistrate intimated to the Inspector that as some time had elapsed and nothing had been done to establish the identification of the necklace it would be returned to petitioner at the end of that month April), if by that time nobody claimed it. In his reply dated 30:4:02 the City Inspector submitted that he had addressed the Nelamangala and Kankanhalli Inspectors as to the whereabouts of Naga Boyce but without any result; that he had that day sent a reminder

to

to the Kaukkalli Inspector and that the Court may pass any orders it deems fit with reference to the restoration of the jewel to Subbamah. With reference to this report of the City Inspector the Magistrate in his order No: 2911 dated 1:5:1902 allowed time up to the 15th of May after which, he stated, the Jomale will be restored to Subbamah provided it was not claimed by anybody else in the meantime. Naga boyee subsequently turned up and being shewn the Jomale stated that it was not the one that belonged to him and which was attached by the Civil Court. On this being intimated to the City Magistrate he directed the restoration of the jewel to the petitioner.

8. The above are the facts of the case. There is no doubt from the Police

investigation the details of which were from time to time reported to the Deputy Commissioner by the City Inspector in person, that suspicion pointed strongly to the petitioner as being concerned in the theft of the bove from the Treasury. Extract of Mr. Wilkinson report on the matter with the Special diaries are forwarded for perusal.

9. As Mr. Wilkinson is now doing duty in the Kadur District, - his further explanation if considered necessary should be obtained through the Deputy Commissioner, Kadur District.

-Sd/- C. Hamilton

District Superintendent of Police
Bangalore

Bangalore
28th August 1902

"Copy"

Inspector [illegible]

Submitted

With reference to the Inspector General's endorsement dated 19th September 1902 on papers connected with the petition of Subbanna to the Government of Mysore forwarded to me by the District Superintendent of Police, Bangalore, I beg to submit the following:

2. As regards the allegation of ill-feeling existing between myself and petitioner, I beg to state that I was perfectly ignorant of any report having been made by him either to the Treasury Assistant Commissioner or the District Magistrate touching the alleged supineness of the Police in connection with the theft case. Hence I could not possibly have entertained any ill-will against

P. T. [illegible]

Petitioner nor do I even now believe that any such report was made to them. So far from my being aware of Petitioner's alleged innocence at the time of the search there was every reason to lead me to suspect him of being implicated in the case. (Vide extract of my report dated 6th February 02), and it was this very reason that prompted the District Superintendent of Police and Deputy Commissioner to direct petitioner's house to be searched without loss of time. (Vide para 3 of the Superintendent's memo dated 28:8:02).

As a matter of fact I was not aware of the presence of any marriage guests in Petitioner's house on the date of the search. There were none there at the time although even had I known it, it would have made no difference especially acting as I was under orders.

4. Regarding the accusation that the search was conducted with indescribable hauteur and not in accordance with law, I beg to submit that I acted throughout in strict accordance with the rules as will be borne out by Wm. Krishna Row, B.A. the Probationary Inspector of Police then attached to the District Superintendents' office who was especially deputed by the District Superintendent to assist me in the search, and further emphatically deny having sat anywhere near the "Devara mane" — The Brahmin Probationary Inspector or the Brahmin Head Constable Ranga Row or the Brahmin Police Sergeant Narsomiah who was actually searching the rooms, or the Brahmin Panchayetdars, or the Petitioner himself would have assured me by drawing my attention to the

room

room had they really found me in close proximity to it. In fact I was seated with the Punchayetdars in the inner Court-yard of the house close to the "Shot." Touching Subbanna's charges that I had defiled his Devaramane by "Smoking away a number of cigars" I regret that he should have by this allegation — endeavoured to accuse me falsely of a very serious dereliction of duty especially in the search of an house of a Brahmin. It has been my invariable practice all through my Police career to observe and respect the sensitive susceptibilities of the elements I come in contact with, and this will be borne out by such of the District Officers that I have had the honor to serve under. I therefore emphatically state that Subbanna's

Charges

Is this true? If not denied

charges were made to injure me in the estimation of my Superior Officers because I carried out my duty.

5. The ornaments taken up on suspicion during the search were all claimed by Petitioner as his own and were practically in his possession at the time and no one else came forward to claim any as will be seen in the Manager.

6. As regards the pair of scales referred to by petitioner, I beg to submit that nothing was fabricated by me in connection with it. The scales were produced (as set forth in my memo aforesaid by one Alwar Chetty who declared that they were handed to him by petitioner for the purpose of being placed in the house of his (Petitioner's)

Enemy

enemy Gouriah, vide the Special Diaries submitted in connection with the case.

In conclusion I beg to assure my Superior Officers that I acted throughout this case in good faith and to the best of my ability.

Sd/ T. F. Wilkinson

Inspector of Police

mwt

Extract from the Memo dated the 6th February 1902, by City Inspector Mr. Wilkinson in crime No: 7/171. Ex Lemus 15 Sl. 5

× × × × × × ×

The 3rd day after the loss of the cash box was reported, clerk Subbanna (Stamp Guminta of the District Treasury) introduced himself to me as having been deputed by the Deputy Commissioner and the Treasury Officer to assist the Police in the detection of the missing box. Believing his statement as much as he was a Treasury official, I initiated him in all the aspects of the case and sought his help for any useful information.

The

The day following this he asked Chief Constable Mc. Kie to take down the statement again of the Nazir of the Principal Munsiff's Court which the Chief Constable did at his (Subbanna's) dictation. The result was that the Nazir stated that he could not identify any of the articles stolen and this was also the story of the other officials of the Munsiff's Court. (Copy of the Nazir's deposition — attached).

2. Two or three days subsequently Subbanna asked me to let him have the services of 2 detectives (Seethappa and Syed Peer). I did so but warned the men to be very careful as to what they did as I had my

own suspicions as to the bona fides of Subbanna. Subbanna endeavoured to get Alwar Chetty to fall in with certain proposals of his but in vain. In the meanwhile he (Subbanna) informed the Treasury officer and the Deputy Commissioner that he had secured the right clue towards the detection of the case and would bring the matter to light and asked for the co-operation of the Police. On the 11th he assured me that all the property would be recovered that night if only I allowed him to take Alwar Chetty to the Mysore Road Station and question him there. I allowed this but nevertheless told the detectives to keep a strict watch on Subbanna's

action

one of the men whom Subbannah informed the Inspector had joined in the commission of the theft.

action. The next morning he again
came to me and informed me
that all the trouble he took towards
the detection of the case proved
futile because I did not co-operate
with him in working up the
County and that he would not
interfere in the matter any further.
3. In the meanwhile I received
information that led me to suspect
strongly that Subbama himself
had a hand in the removal of the
box from the Treasury and as there
is bitter enmity between himself
and the Process peon Gowriah,
he probably was putting the Police
off the scent by endeavouring to
attach blame on Gowriah and
his comrades Alwar Chetty and

Adavi

Adaw. As Subbanna had positively assured me that the mere taking of the Kouty to the Mysore Road outpost would result in the recovery of the property, I suspected that his object was to quietly introduce some of the property on the person of the Kouty at a fitting opportunity. But I was aware that the Kouty was too sharp to be caught by Subbanna and as all that was wanted was one or two of the stolen articles to enable the case being worked to a satisfactory end, I took Alwar Chetty into my confidence and told him to go with Subbanna with instructions to play into his hands. Alwar Chetty returned and informed me that Subbanna proposed to him

to

to introduce into the house of Gowriah
a certain jewel connected with
the case that he (Subbanna) would
give him. This further aroused my
Suspicion as to Subbanna's complicity
in the theft. Later on i.e. on the
13th Subbanna himself came to
me and said that he would get
hold of one or two jewels connected
with the case thro' Alwar Chetty.
I prevailed on the County to act
as Subbanna told him to do and
to bring to me direct anything
he may give him to be introduced
into Gowriah's house. That afternoon
it would appear Subbanna took
Alwar Chetty to the Treasury Officer's
house in Cantonment and made
him believe that everything was

going

going on satisfactorily. On the 14th
-Subbanna took Alwar Chetty to
his house and told him that he
would entrust him with a Jouale
and other trinkets which he should
carefully secret in one of the rooms
of Gouriah's house. The Kouti
consented to this, but on second
consideration Subbanna put off
doing so stating as his reason
that he had no confidence in him
(Kouty) to entrust him with such
a valuable jewel and said that he
would give him some other trinkets
of less value similar to those lost
for introduction into Gouriah's house.
In the meanwhile -Subbanna was
seen frequently going to a house
in Chamrajpet next door to which,
is the house of Gouriah's sister,

probably

probably to introduce there some one of the stolen jewels, and thus implicate Gowriah. At my instance Subbanna was informed by the Kouty that Gowriah was about to leave the place and if anything was to be done it should be done without any further delay. Subbanna thereupon gave him (the Kouty) to introduce into the loft of Gowriah's house a pair of brass scales having a small coral bead attached to the end of the string of the handle which probably corresponded to the pair that was in the cash box. The scales, Alwar Chetty as previously instructed, brought to me. I subsequently learnt that that afternoon Subbanna went to the Nazir and arranged with him

to

to identify readily as that stolen any property that may be produced by the Police. This further strengthened my suspicions against Subbanna and as his object apparently was to throw us on the wrong scent. I had to act with great caution, and to catch Subbanna up I went to the Nayer to ascertain from him the description of the scales lost. The Nayer's description, — however, did not correspond with the scales supplied by Subbanna. In the meantime information was received that some of Subbanna's relations had come from Madagondahalli, a village in His Majesty's Territory, and went away the next day. I reported all that transpired to the Deputy Commissioner who did not advise

advise the search just then of —— Subbanna's house, being of opinion that he was a thorough scamp and too sharp to be caught and would not keep in his house any of the property. In the meantime, Subbanna's movements are being closely watched and a sharp and intelligent detective Constable has been sent off to —— Madagondahalli as it is probable that Subbanna may have given the articles stolen to some one of his relatives who had come on a visit to him.

× × × × × × × × × ×

"True Extract"

Sd/ C. Hamblin.

District Superintendent of Police

Bangalore

"Copy"

Inspector General of Police

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT,

The 10-12-1902.

ENDORSEMENT GRANTED TO N. Subbanna, Stamp Examiner, Bangalore 2nd Treasury,

in reply to his Petition Registered No. 67 dated 7th July 1902 praying for sanction to prosecute Mr T. L. Wilkinson, City Inspector Bangalore for offences under Sections 193, 342, 448 & 298 of the Indian Penal Code.

Petitioner is informed that his application is rejected as Government do not consider that sufficient grounds for sanctioning the prosecution of Inspector Wilkinson, as prayed for.

T. Wilkinson

By Order,

Secretary.

No. 8319 10-12-02

Copy to the Inspector Genl of Police with reference to his letter No 2317 dated 27th Nov 1902. If it is true that Inspector Wilkinson did wilfully indecently assault the petitioners house, — a fact which is not disputed

Secretary

denied in the Shelton explanation, & just ~~one~~ was to ensure
Communist Party [illegible] with a view to check
such practices by Police forces and to
as they are objectionable.

Yours
[illegible]
[illegible]